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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,372	07/11/2003	Mark G. Gilreath	P-4438-US	2855
49443	7590	03/26/2007		
PEARL COHEN ZEDEK LATZER, LLP			EXAMINER	
1500 BROADWAY 12TH FLOOR			KISH, JAMES M	
NEW YORK, NY 10036			ART UNIT	PAPER NUMBER
			3737	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/26/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/617,372	<b>Applicant(s)</b> GILREATH ET AL.	
	<b>Examiner</b> James Kish	<b>Art Unit</b> 3737	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/11/03, 12/8/06</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 8-14 and 16-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Ishikawa et al. (US Patent No. 6,264,611). Ishikawa discloses a ball-shaped monitoring device for use with an instrument that is insertable into a human body. One application of the ball sensor is to place it at the tip of a guidewire used in interventional procedures, such as balloon angioplasty (column 4, lines 45-65). Figure 3 shows a balloon catheter system that could utilize the ball sensor. The figure shows a guidewire 10 at the non-inserted end. The device may be made of silicon or metals (column 15, lines 16-30). The ball sensor provides information to a remote processing system via RF signals. See Figure 7. Column 18, lines 15-38 discuss various applications of the ball sensor, including use with ultrasound and other imaging catheters.

Claims 1-6, 11-16 and 18-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Kucharczyk et al. (US Patent No. 6,626,902). Kucharczyk discloses a multi-lumen, multi-functional catheter system. As can be seen from Figure 1, the system comprises an in-vivo portion 2 and a non-inserted end connected to a computer 24 (also see column 12, lines 1-55). The computer interprets acquired measurements from the catheter and allows for an automation of the device column 9, lines 33-44; column 11, lines 27-30; column 13, lines 13-17). The device can be made out of soft, biocompatible plastics (column 20, lines 28-32). Possible tools that can be implemented with the catheter system can be found at column 8, lines 1-20.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kucharczyk et al. in view of any one of Tartaglia et al. (US Patent No. 6,800,056), Yoon'064 (US Patent No. 6,277,064) and/or Yoon'090 (US Patent No. 6,066,090). Kucharczyk discloses a multi-lumen, multi-functional catheter system. As can be seen from Figure 1, the system comprises an in-vivo portion 2 and a non-inserted end connected to a computer 24 (also see column 12, lines 1-55). The computer interprets acquired measurements from the catheter and allows for an automation of the device

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column 9, lines 33-44; column 11, lines 27-30; column 13, lines 13-17). The device can be made out of soft, biocompatible plastics (column 20, lines 28-32). Possible tools that can be implemented with the catheter system can be found at column 8, lines 1-20.

The device comprises optical fiber bundles configured for conveying illumination signals to and from the target tissue (column 8, lines 5-7). While not explicitly stated, the use of LEDs as an illumination source is well known in the art and it would be obvious to one of ordinary skill in the art to use LEDs as the source. In support of statement, see Tartaglia at column 3, lines 56-60; Yoon'064 at column 7, lines 20-24; and/or Yoon'090 at column 5, lines 1-5.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Kish whose telephone number is 571-272-5554. The examiner can normally be reached on 8:30 - 5:00 ~ Mon. - Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 571-272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For

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more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JMK

  
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